

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE: '318 PATENT INFRINGEMENT LITIGATION        )  
  )   C.A. No. 05-356 (KAJ)  
  )   (consolidated)  
  )

**MYLAN PHARMACEUTICALS INC.'S AND MYLAN LABORATORIES, INC.'S  
RESPONSES AND OBJECTIONS TO PLAINTIFFS'  
NOTICE OF DEPOSITION UNDER FED. R. CIV. P. 30(b)(6)  
(with noticed deposition date of March 17, 2006)**

Defendants Mylan Pharmaceuticals Inc. and Mylan Laboratories Inc.  
(collectively, "Mylan"), pursuant to Federal Rules of Civil Procedure 26 and 30, hereby submit  
their Responses and Objections to the Notice of Deposition Under Fed. R. Civ. P. 30(b)(6)  
served by Plaintiffs, having a noticed deposition date of March 17, 2006.

**OBJECTIONS APPLICABLE TO ALL DEPOSITION TOPICS**

Mylan incorporates herein its Objections Applicable to All Deposition Topics set  
forth in Mylan's Responses and Objections to Plaintiffs' Notice of Deposition Under Fed. R.  
Civ. P. 30(b)(6), with a noticed deposition date of March 15, 2006, served contemporaneously  
herewith.

**SPECIFIC OBJECTIONS AND RESPONSES**

**Topic No. 1.**

The dates and circumstances of any analysis, discussion, or evaluation of the '318 patent  
conducted by or on behalf of Mylan, including but not limited to identification of all  
individuals involved.

**RESPONSE:** Mylan objects to this Topic to the extent that it is directed to willful  
infringement, which claim the Court dismissed and, therefore, which is no longer at issue in this  
litigation. Mylan further objects to this Topic on the grounds that it is overly broad, unduly

burdensome and seeks testimony or information that is not reasonably calculated to lead to the discovery of admissible evidence. This Topic seeks testimony or information concerning “any analysis, discussion, or evaluation of the ‘318 patent.” Mylan also objects on the ground that this Topic seeks testimony or information protected by the attorney-client privilege, attorney work product and/or any other applicable privilege. In addition, Mylan objects to the extent that this Topic seeks testimony or information concerning any galantamine product that is not subject to Mylan’s ANDA No. 77-590. Plaintiffs have refused to provide similar information concerning other drug products containing galantamine. Also, based on Plaintiffs’ letter dated March 10, 2006, Plaintiffs have agreed to limit discovery only to that which relates “to the specific products that are the subject of Janssen’s New Drug Application . . . 21-169 and the defendants’ Abbreviated New Drug Applications . . . .” (3/10/06 Letter from K. Calia at 1). Mylan also objects to the extent that this Topic is cumulative and duplicative of other Topics in the Rule 30(b)(6) notices served to Mylan, including Topic 2 herein and Topic 1 of Plaintiffs’ Notice of Deposition Under Fed. R. Civ. P. 30(b)(6) served by Plaintiffs, having a noticed deposition date of March 15, 2006.

**Topic No. 2.**

Documents, laboratory notes, or minutes, of any analysis, discussion, or evaluation of the ‘318 patent conducted by or on behalf of Mylan.

**RESPONSE:** Mylan objects to this Topic to the extent that it is directed to willful infringement, which claim the Court dismissed and, therefore, which is no longer at issue in this litigation. Mylan further objects to this Topic on the grounds that it is overly broad, unduly burdensome and unlimited in time and/or scope. This Topic seeks testimony on “any analysis, discussion, or evaluation,” with no limitation whatsoever to time or scope. Mylan also objects to the extent that this Topic seeks information not within its possession, custody or control. In

addition, Mylan objects to the extent that this Topic assumes facts not yet in evidence, including that any such “laboratory notes or minutes” exist. Mylan further objects on the ground that this Topic seeks testimony or information protected by the attorney-client privilege, attorney work product and/or any other applicable privilege. Mylan also objects to the extent that this Topic is cumulative and duplicative of other Topics in the Rule 30(b)(6) notices served to Mylan, including Topic 1 herein.

**Topic No. 3.**

The factual and legal bases for Mylan’s First Defense (noninfringement).

**RESPONSE:** Mylan objects to this Topic to the extent that it is directed to willful infringement, which claim the Court dismissed and, therefore, which is no longer at issue in this litigation. Mylan further objects to the extent that this Topic seeks testimony or information concerning infringement/non-infringement. The Defendants have stipulated to infringement, in the event that the patent-in-suit is found valid and enforceable, and therefore infringement/non-infringement is no longer at issue in this litigation. Plaintiffs furthermore agreed in the Stipulation that they “will not seek discovery from Defendants relating solely to the issue of infringement of the ‘318 patent.” Mylan also objects to the extent that this Topic is directed to contentions, which information should be sought through interrogatories. In addition, Mylan objects to the extent that this Topic purports to seek expert discovery. Mylan further objects to the extent any information sought is in the possession, custody or control of Plaintiffs. Mylan also objects on the ground that this Topic seeks testimony or information protected by the attorney-client privilege, attorney work product and/or any other applicable privilege.

**Topic No. 4.**

The factual and legal bases for Mylan's Sixth Defense (failure to state a willful infringement claim).

**RESPONSE:** Mylan objects to this Topic to the extent that it is directed to willful infringement, which claim the Court dismissed and, therefore, which is no longer at issue in this litigation. Mylan further objects to the extent that this Topic seeks testimony or information that is not reasonably calculated to lead to the discovery of admissible evidence. Mylan also objects to the extent that this Topic seeks testimony or information protected by the attorney-client privilege, attorney work product and/or any other applicable privilege.

**Topic No. 5.**

The factual and legal bases for Mylan's First Claim for Relief (declaratory judgment of patent non-infringement) according to its proof elements, including an element-by-element comparison of each asserted claim of the '318 patent to the use of the Generic Product.

**RESPONSE:** Mylan objects to this Topic to the extent that it is directed to willful infringement, which claim the Court dismissed and, therefore, which is no longer at issue in this litigation. Mylan further objects to the extent that this Topic seeks testimony or information concerning infringement/non-infringement. The Defendants have stipulated to infringement, in the event that the patent-in-suit is found valid and enforceable, and therefore infringement/non-infringement is no longer at issue in this litigation. Plaintiffs furthermore agreed in the Stipulation that they "will not seek discovery from Defendants relating solely to the issue of infringement of the '318 patent." Mylan also objects to the extent that this Topic is directed to contentions, which information should be sought through interrogatories. In addition, Mylan objects to the extent that this Topic purports to seek expert discovery. Mylan further objects to the extent any information sought is in the possession, custody or control of Plaintiffs. Mylan also objects on the grounds that this Topic seeks testimony or information protected by the

attorney-client privilege, attorney work product and/or any other applicable privilege. Mylan also objects to the extent that this Topic is cumulative and duplicative of other Topics in the Rule 30(b)(6) notices served to Mylan, including Topic 3 herein.

**Topic No. 6.**

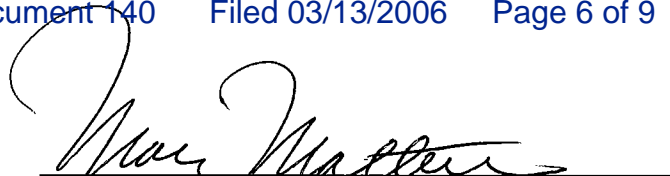
The identity and location of documents and things concerning the foregoing topics.

**RESPONSE:** Mylan objects to the extent that this Topic is overly broad and unduly burdensome. Mylan further objects to the extent that this Topic seeks testimony, documents or information protected by the attorney-client privilege, the attorney work product doctrine and/or any other applicable privilege and/or documents. Mylan also objects to the extent that this Topic seeks testimony or information directed to willful infringement, which claim the Court dismissed and, therefore, which is no longer at issue in this litigation. In addition, Mylan objects to the extent that such testimony, information or documents sought under these Topics are not in the possession, custody or control of Mylan. Mylan further incorporates herein any other objection asserted in response to Topics 1-5.

**Topic No. 7.**

Persons knowledgeable about the subject matter of the foregoing topics.

**RESPONSE:** Mylan objects to the extent that this Topic is overly broad and unduly burdensome. Mylan further incorporates herein any other objection asserted in response to Topics 1-6.



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Dated: March 13, 2006

**CERTIFICATE OF SERVICE**


It is hereby certified this 13<sup>th</sup> day of March, 2006 that copies of the foregoing document, **MYLAN PHARMACEUTICALS INC.'S AND MYLAN LABORATORIES INC.'S RESPONSES AND OBJECTIONS TO PLAINTIFFS' NOTICE OF DEPOSITION UNDER FED. R. CIV. P. 30(b)(6) (with noticed deposition date of March 17, 2006)**, were served on counsel as indicated:

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